BEFORE THE ARIZONA MEDICAL BOARD

In the Matter of

ADAM F. FEINGOLD, M.D.

Holder of License No. **23246**
For the Practice of Allopathic Medicine
In the State of Arizona.

Board Case No. MD-04-0128A

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

(Letter of Reprimand)

The Arizona Medical Board ("Board") considered this matter at its public meeting on April 14, 2005. Adam Feingold, M.D., ("Respondent") appeared before the Board without legal counsel for a formal interview pursuant to the authority vested in the Board by A.R.S. § 32-1451(H). The Board voted to issue the following findings of fact, conclusions of law and order after due consideration of the facts and law applicable to this matter.

FINDINGS OF FACT

1. The Board is the duly constituted authority for the regulation and control of the practice of allopathic medicine in the State of Arizona.

2. Respondent is the holder of License No. 23246 for the practice of allopathic medicine in the State of Arizona.

3. The Board initiated case number MD-04-0128A after receiving notification of a medical malpractice settlement involving Respondent's care and treatment of a thirty year-old female patient ("TS").

4. TS presented to Respondent on April 25, 2000. Upon determining TS was pregnant, Respondent placed her on Aldomet for hypertension. Respondent had treated TS during a previous pregnancy. The 2000 pregnancy was TS's tenth pregnancy. Respondent ordered routine prenatal laboratory tests, but did not perform a baseline workup with regard to TS's chronic hypertension. On May 4, 2000 TS presented to

Respondent for her first prenatal visit. TS routinely visited Respondent approximately every 2-4 weeks throughout her pregnancy for blood pressure checks, urine testing, and fetal and maternal assessment.

5. On October 26, 2000 TS presented to Respondent for a prenatal visit complaining of headaches. TS's blood pressure was 158/110 and, on repeat in the left lateral position, was 138/82. A urine dip showed a large amount of protein. Respondent sent TS for an evaluation at Labor and Delivery of Yavapai Regional Medical Center ("Medical Center"). At Medical Center TS's blood pressure was 152/92. Labs were drawn that were normal. An ultrasound revealed a male fetus at the 40th percentile for growth and a normal amniotic fluid index of 16. A fetal non-stress test was reactive. Respondent sent TS home with precautions.

6. On October 29, 2000 TS presented to a paramedic station for a blood pressure check and her pressure was found to be elevated. TS's husband paged Respondent and reported the elevated blood pressure and that TS was not feeling fetal movement. Respondent instructed TS to immediately go to Medical Center. TS arrived at Medical Center and was admitted at 1738 with a blood pressure of 157/98. Fetal heart rate and contraction monitors revealed a non-reassuring fetal heart rate of minimal variability with both late and spontaneous decelerations. TS also experienced intermittent contractions. An IV and oxygen were initiated and a vaginal examination and scalp stimulation was performed. A small acceleration was seen at this time. Medical Center staff notified Respondent of TS's condition and he arrived shortly thereafter.

8. Upon his arrival, Respondent performed a biophysical profile that was non-reassuring and saw a fetal bradycardic episode on ultrasound. At 1923 Respondent performed an emergent Caesarean section ("C-Section") and delivered the baby. The baby was immediately given to Neo-natal Intensive Care ("NICU") personnel who began

resuscitative measures. After 90 minutes of CPR, the code was ended and the baby expired. The baby's APGAR scores were 0/0 and immediate cord blood gases revealed sever acidosis at 6.75. An autopsy revealed an anatomically normal male fetus with a large amount of nucleated red blood cells indicating the fetus's attempt to compensate for hypoxia. The placenta had a 9cm x 3 cm area present that was consistent with a placental infarct or abruption that the pathologist believed to be 24-72 hours old.

9. Respondent testified at the formal interview that TS's complicating factors were chronic hypertension, heavy tobacco use, previous C-Section, and elevated alpha fetoprotein. Respondent also noted TS was very non-compliant. Respondent testified he ordered labs in TS's first trimester as well as uric acid, and a liver function test. Respondent noted that in TS's case it was always a battle to get TS to take her blood pressure medications and even come to the clinic, which was rather far from where she lived. Respondent stated he did not believe TS would complete the 24-hour urine collection. Respondent testified, in retrospect, he guessed he should have been more forceful and encouraged her to get her 24-hour urine collection.

10. Respondent testified that in terms of monitoring for growth restriction throughout TS's pregnancy, TS's fundal heights and estimated fetal weights were appropriate and within normal limits. Respondent noted that ultrasound on the day of delivery confirmed the baby was not growth restricted. Respondent noted that ultrasounds could have been repeated at 32 weeks, but he did not feel they were indicated in TS's case. Respondent testified regarding the October 26, 2000 office visit and noted he saw TS and she had markedly elevated blood pressure, though no symptoms of superimposed preeclampsia, no vision changes or scleramata, no right quadrant pain, and normal reflexes with no peripheral edema.

11. Respondent testified that he sent TS to Medical Center on October 26, 2000 for further evaluation. Respondent stated the evaluation included an ultrasound with normal results that confirmed a normal size fetus, normal amniotic fluid index, and TS also had normal lab results. Respondent went on to state TS had a reactive non-stress test and good fetal movement, that her blood pressure had been stabilized. Respondent noted that HELLP syndrome was ruled out and TS had reassuring fetal status. Respondent testified in terms of the large protein that was noted on that date, it was not acute onset of proteinuria and TS had large protein noted at two other visits, one at 12 weeks and one at 31 weeks so he was comfortable discharging her home with strict precautions and close follow-up in the office two or three days later. Respondent noted TS presented to Medical Center three days later with elevated blood pressure, possibly due to her not taking her medication, resulting in a placental infarct and the fetus's demise.

12. Respondent was asked whether the large protein at 12 weeks and subsequent normal proteins until September 26 would have alerted him to a problem when TS had chronic hypertension and large protein. Respondent said it would. Respondent was asked if a blood pressure of 158/101 at 31 weeks was worrisome in TS. Respondent stated it absolutely was worrisome and he would make sure TS was not having any superimposed preeclampsia with any other signs and symptoms and reassuring fetal status, but it was not evaluated further.

13. The Board noted there was not much documentation in Respondent's record that TS was non-compliant. Respondent acknowledged the documentation of non-compliance was poor. Respondent was asked if there was any reason the proteinuria he noted in the October 26, 2000 visit was not followed up considering TS was being evaluated for a problem. Respondent testified there was no reason, only that

it was not acute onset and TS had proteinuria at two office visits and he felt she was stable. Respondent noted in hindsight he should have kept TS at Medical Center, ordered a 24-hour urine and monitored her more closely at the October 26 visit.

14. Respondent was asked what other testing he would consider for this high risk patient. Respondent testified that looking back the only thing he can think of that he did not do was maybe increase fetal surveillance with ultrasound at approximately 28 to 32 weeks and document more of a plan on what he was going to do towards the end of the pregnancy with twice weekly non-stress tests and amniotic fluid index. The Board noted that Respondent had gotten a perinatal consult for TS's elevated alpha fetoprotein. Respondent was asked if elevated alpha fetoprotein can put a pregnancy at risk even if there is not a spinal fluid defect. Respondent stated it could and those are usually seen at 2 ½ multiples of the median and TS's was only 2.27. Respondent testified that in any event, if there is any unexplained alpha fetoprotein he always increases fetal surveillance. The Board noted Respondent had not done so in TS's case. Respondent testified this was because TS ended up delivering at 35-36 weeks.

15. The Board noted that when the perinatologist did the evaluation for the elevated alpha fetoprotein the notes were to closely monitor TS because she is at increased risk for a couple of things, in addition to the elevated alpha fetoprotein, which include toxemia, intrauterine growth retardation and abruption.

16. Respondent was asked why there was a two hour delay from TS's admission where there no was fetal activity, a non-reactive stress test and late decelerations, to when Respondent performed the C-Section. Respondent testified that some of that would be the result of his not having sense of urgency from the nurse at the hospital. Respondent noted his office is right next to Medical Center and it takes him less than two minutes to come over and evaluate a strip, so if there was any indication from

the nurse that there was that ominous looking of a strip, he would have walked over and looked at it. Respondent testified he had no idea at that time that the strip looked that bad. Respondent was asked if Medical Center called him when TS was admitted and if he recalled what they told him. Respondent testified he could not recall the exact details, just that TS was there, her blood pressure was elevated and that she would be evaluated further and they would call him back. Respondent noted that because TS had a reactive non-stress test just three days prior he was not assuming there was anything ominous at that point.

17. Respondent also testified that at the time of day in Medical Center when he saw TS there was not an operating room available with anesthesia in-house and it is a little bit harder to mobilize forces there. Respondent was asked what he believed to be the cause of the fetal distress and subsequent demise of the fetus. Respondent testified he believed TS's chronic hypertension led to the placental infarct. Respondent was asked if he thought the outcome would have been the same had TS been properly followed. Respondent testified he was not sure and noted he followed TS as closely as possible and he thinks the problems were due to her not taking her blood pressure medication. Respondent testified that although he did have documentation in his records, there were many times when TS told him she did not feel well and did not take her medicine.

18. Respondent was asked how he would have handled this case differently. Respondent testified he would have documented everything he discussed with TS at every visit and probably would not have kept TS as a patient if she was not going to be compliant with all the things he wanted her to do. Respondent noted he thinks he just felt that her having some care was better than her not having any care and coming into the clinic so he could monitor her as best he could was better than nothing. Respondent also

stated he would have forced her to do a 24 hour urine on the first visit and would have kept her overnight in Medical Center on October 26, 2000. Respondent also noted in hindsight he would have had the perinatologist that addressed the issue of elevated alpha fetoprotein make a consult.

19. The standard of care required Respondent to appropriately monitor a high-risk pregnancy and evaluate the patient for preeclampsia.

20. Respondent fell below the standard of care because he failed to appropriately monitor a high-risk pregnancy and failed to evaluate the patient for preeclampsia.

21. TS was harmed because she was subjected to an emergency C-Section and her fetus was stillborn.

CONCLUSIONS OF LAW

1. The Arizona Medical Board possesses jurisdiction over the subject matter hereof and over Respondent.

2. The Board has received substantial evidence supporting the Findings of Fact described above and said findings constitute unprofessional conduct or other grounds for the Board to take disciplinary action.

3. The conduct and circumstances described above constitutes unprofessional conduct pursuant to A.R.S. § § 32-1401(27)(q) ("[a]ny conduct or practice that is or might be harmful or dangerous to the health of the patient or the public;)" and 32-1401(27)(ll) ([c]onduct that the board determines is gross negligence, repeated negligence or negligence resulting in harm to or the death of a patient."

ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law,

IT IS HEREBY ORDERED that Respondent is issued a Letter of Reprimand for failing to appropriately monitor a high-risk pregnancy resulting in an emergency Caesarian Section and stillbirth.

RIGHT TO PETITION FOR REHEARING OR REVIEW

Respondent is hereby notified that he has the right to petition for a rehearing or review. The petition for rehearing or review must be filed with the Board's Executive Director within thirty (30) days after service of this Order. A.R.S. § 41-1092.09(B). The petition for rehearing or review must set forth legally sufficient reasons for granting a rehearing or review. A.A.C. R4-16-102. Service of this order is effective five (5) days after date of mailing. A.R.S. § 41-1092.09(C). If a petition for rehearing or review is not filed, the Board's Order becomes effective thirty-five (35) days after it is mailed to Respondent.

Respondent is further notified that the filing of a motion for rehearing or review is required to preserve any rights of appeal to the Superior Court.

DATED this 7 day of July, 2005.

ARIZONA MEDICAL BOARD 1913 STATE OF ARIZONA

THE ARIZONA MEDICAL BOARD

By Amanda Diehl
TIMOTHY C. MILLER, J.D.
Executive Director

jc

ORIGINAL of the foregoing filed this 7th day of July, 2005 with:

Arizona Medical Board
9545 East Doubletree Ranch Road
Scottsdale, Arizona 85258

Executed copy of the foregoing
mailed by U.S. Certified Mail this
7th day of July, 2005, to:

Adam F. Feingold, M.D.
Address of Record